

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

MALIBU MEDIA, LLC	:	Case No.: 1:12-cv-01117-WTL-MJD
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
MICHAEL HARRISON,	:	
	:	
Defendant.	:	

**DEFENDANT'S RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION TO
MAINTAIN DOCKET NO. 201 UNDER SEAL**

Defendant Michael Harrison (“Harrison”), by counsel, respectfully submits his Response in Opposition to Plaintiff’s Motion to Maintain Docket No. 201 Under Seal [CM/ECF 240], and in support of his response opposing Plaintiff Malibu Media, LLC’s (“Malibu”) motion, states as follows:

1. This Court should deny Malibu’s Motion to Maintain Docket No. 201 Under Seal (“Motion”) for the reasons set forth in Defendant’s SEALED Response to Plaintiff’s Motion for Sanctions Against Defense Counsel Gabriel Quearry for Publicly Disclosing and Disseminating Confidential Information Twice in Violation of the Protective Order Entered on April 29, 2014. ECF 244 at 3-10. If the Court agrees that the names are not confidential information as defined by the Protective Order [CM/ECF 244 at 3-10; CM/CEF 177], Malibu’s instant motion should be denied.

2. The Court should deny Malibu’s Motion for the additional reason that the Motion violates S.D. Ind. L.R. 7-1(b)(2). The local rule provides: “[t]he following motions must also be

accompanied by a supporting brief: ... (2) any motion made under Fed. R. Civ. 37.” S.D. Ind. L.R. 7-1(b)(2).

3. Malibu expressly states that its Motion is made “pursuant to Fed. R. Civ. P. 37[.]” ECF 240 at 3 (“Docket No. 201 should remain sealed or be stricken pursuant to Fed. R. Civ. P. 37[.]”); ECF 240 at 2 (citing Fed. R. Civ. P. 37(b)(2)(A) as the legal standard applicable to its Motion); Id. (citing *Whitehead v. Gateway Chevrolet, et al.*, 2004 WL 1459478, at *3 (N.D. Ill. 2004), as an example in support of its argument that “Rule 37(b) [applies] to violations of Rule 26(c) protective orders”). However, Malibu’s Motion is not accompanied by a supporting brief. CM/ECF 240.

For all of the foregoing reasons, Defendant Michael Harrison respectfully requests that the Court enter an order denying Malibu’s Motion and unsealing Docket No. 201 in its entirety for public view, and awarding Harrison his reasonable expenses incurred responding to Malibu’s Motion; and for all other relief this Court deems just and proper.

Respectfully Submitted,

/s/ Gabriel J. Quearry
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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2014, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to the parties by operation of the Court’s electronic filing system. Parties may access this filing through the Court’s system.

/s/ Gabriel J. Quearry
Gabriel J. Quearry